

Tennessee Child Support Employer FAQs

Income Withholding Order for Support (IWO)

1. **What is an Income Withholding Order (IWO)?**

The Income Withholding Order contains the procedures that employers and payers of income must follow to implement an Order/Notice to Withhold Income for Child Support for an employee whose principal place of employment is Tennessee.

Withholding support in accordance with the Notice/Order shall have priority over any other legal process under state law against the same wages or other income for debts other than child support.

2. **What are my legal requirements for honoring the IWO?**

These procedures are contained in the State Rules of the Department of Human Services 1240-2-2-.05 and in the Tennessee Code Annotated (T.C.A.) 36-5-501. The Rules of the Department Of Human Services can be accessed on the Internet at <http://www.state.tn.us/sos/rules/1240/1240.htm>. The Tennessee Code Annotated can be found on the Internet at <http://www.lexisnexus.com/hottopics/tncode/>.

Per T.C.A. §36-5-501(h), if you fail to withhold income in accordance with the provisions of the Income Withholding Order, you are liable for any amount up to the accumulated amount that should have been withheld from the income of the employee or income recipient. Your compliance with this Order shall discharge your liability to the affected employee or income recipient as to that portion of the employee's or recipient's income affected by the Order.

Per T.C.A. §36-5-501(g), you are required to notify the office that issued the Income Withholding Order when the employee terminates employment, or if income payments are terminated. You are also required to provide to that office the last known address of the employee/recipient of income and the name and address of his/her new employer, or new source of income, if that is known.

3. **What type of penalties am I subject to for failing to comply with the IWO?**

An employer shall be subject to a fine for a Class C misdemeanor if the income withholding is used as a basis to refuse to employ a person, or to discharge the employee/obligor, or for any disciplinary action against the employee.

An employer shall also be subject to a fine for a Class C misdemeanor if that employer fails to withhold from the employee's/obligor's income, or fails to pay such amounts to the clerk of court or to the Department of Human Services as directed.

4. **Now that I've gotten an IWO, what am I supposed to do?**

Whenever you receive an Order/Notice to Withhold Income for an employee whose principal place of employment is Tennessee, you must begin the withholding no later than the first pay period **occurring fourteen (14) working days** after the date of the Order/Notice.

5. **The Income Withholding for Support doesn't have a judge's signature. Do I still have to comply with it?**

Yes. The Income Withholding for Support is a federally required form and is used in all support cases in all states. The signature of a judicial officer is not required when the order is sent by a Local Child Support Agency (LCSA), which is a county or regional child support office. In Tennessee, only the Court Clerk and the IV-D Child Support Agency and/or its contractors have the authority to issue IWOs.

6. **If an IWO is from another state, must the payment be sent to that state?**

Yes. You must comply with Income Withholding Orders from other states. Instructions on the IWO will specify where to mail the payment. Please do not send payments ordered by other states to the Tennessee Central Receipting Unit.

7. **What if the name and/or Social Security number on the IWO do not match my employee?**

Call the Tennessee Employer Line at 800-446-0814 to find out if there is an error in the number or name, or if this could be a case of mistaken identity.

8. **Per Tennessee law, what is the definition of an employer?**

Pursuant to T.C.A. § 36-5-501(j)(1) an "employer, person, corporation or institution," who or which may be required to withhold income, includes the federal government, the State and any political subdivision thereof and any other business entity which has in its control funds due to be paid to a person who is obligated to pay child support.

9. **My employee has a Non IV-D case. What is Non-IVD?**

A Non-IV-D case (also known as a private case) is a case that is not filed with a local child support agency but has been prepared and filed by a private attorney, paralegal, or participant on the case. Non-IV-D cases are child support cases established and maintained privately, such as following a divorce. Some Non-IV-D cases become IV-D cases when a case member applies for services in an attempt to collect outstanding, unpaid child support.

National Medical Support Notice

10. **What is the National Medical Support Notice (NMSN)?**

The National Medical Support Notice (NMSN) is a two-part notice sent to employers from a local child support agency. Its purpose is to ensure that children receive health care coverage when it's available and required as part of a child support order.

Employers and health plan administrators are required to complete and comply with the National Medical Support Notice (NMSN) form sent to the employer. (Tennessee Code Annotated (T.C.A.) 36-5-501(a)(3)(A) and (B)).

New Hire Reporting

11. **What is the New Hire law?**

Effective October 1, 1997, state and federal law require all employers to report each new and re-hired employee to the State Directory of New Hires (Tennessee Code Annotated §36-5-1102-1105). Public law defines a newly hired employee as (i) an employee who

has not previously been employed by the employer; (ii) or was previously employed by the employer but has been separated from such prior employment for at least 60 consecutive days. Failure to report a new employee could result in a fine of \$20 for each employee who is not reported. Additional information regarding reporting may be found at www.tnnewhire.com/law.html.

Making Payments

12. How often do I withhold income and send in payments for child support for my employee?

Payments may be deducted from the employee's wages, or other income, either weekly, biweekly, or monthly to coincide with his/her pay periods or other periods for payment of income. Payments must be sent to the address shown on page 1 of the Order within **seven (7) days** of the date the employee/obligor is paid.

13. What are our options as an employer to submit payments to the Child Support Receipting Unit?

All payments sent through the mail must be made payable to **TENNESSEE CHILD SUPPORT** and mailed to the following address: **Receipting Unit**
P.O. Box 305200
Nashville, TN 37229

State law (T.C.A. 36-5-120) requires you to provide the following information along with each payment you send to the Child Support Receipting Unit:

- Date the payment was deducted from the employee's/obligor's income
- Docket number
- Court identifier
- Employee's/obligor's name
- Employee's/obligor's Social Security number
- Employee's/obligor's return address

Payments can also be submitted through electronic payment methods. Visit the Tennessee Child Support Payment website at <https://tn.smartchildsupport.com/> for more information on electronic pay options.

14. How much of my employee's income can I withhold for child support?

For the purpose of income withholding, an employee's net income is defined as the amount remaining after deductions for FICA, withholding taxes, and health insurance premiums which cover the child(ren) have been made. The amount withheld for support may not exceed fifty percent (50%) of the employee's net wages or other income.

If you are unable to deduct the full amount specified in this order due to the fifty percent (50%) limitation, the payment you remit should specify the following information for each obligor:

- The amount of the individual's net income [after taxes, FICA, and health insurance premiums to cover the child(ren) have been deducted]

- Whether you have received prior Income Withholding Orders which prevent you from fully complying with this order.

15. May I charge the employee a fee for withholding and submitting child support payments on their behalf?

You may, at your discretion, charge the employee or other recipient of income an amount of up to five percent (5%), not to exceed five dollars (\$5) per month, for your costs in complying with this order.

Multiple Employees/Orders

16. May employers combine the child support payments from several employees into one check?

If you are required to withhold support from more than one person, you may combine withheld amounts in a single payment to each appropriate court or other entity ordering the assignments; however, you must provide a listing indicating which portion of the single payment is attributable to each individual.

17. If my employee has more than one child support order, and collections from income-withholding are not sufficient to meet all child support obligations, how are the collections distributed?

If you receive more than one (1) Order for Income Withholding Order against an employee, the priority for deducting income shall be as follows:

- First priority To all orders for amounts due for current support due a child
- Second priority To all orders for amounts due for arrearages due a child
- Third priority To all orders for amounts due for current support due a spouse
- Fourth priority To all orders for amounts due for arrearages due a spouse
- Fifth priority To all statutory fees and court costs

You must honor all withholdings to the extent that the total amount withheld from wages does not exceed fifty percent (50%) of the employee's wages or a recipient's income after FICA, withholding taxes, and a health insurance premium which covers the child(ren) are deducted.

18. How do I prorate multiple IWOs for one employee/recipient of Income?

You must use the following procedures if you receive an Income Withholding Order for current child support against an employee's income which would cause the total amount deducted for any two (2) or more assignments for current child support to exceed fifty

percent (50%) of that employee's net income [after FICA, withholding taxes, and a health insurance premium which covers the child(ren) have been deducted].

You must calculate the amount of **current child support** to allocate before allocating any child support arrearages. (An example of the calculation follows this section.)

1. Determine the total amount of all current child support that is ordered to be withheld by all IWOs received for the employee or recipient of income
2. Calculate the percentage that each order for current child support represents of the total amount that is ordered.
3. Using these percentages, calculate how much of the employee's available net income [after FICA, withholding taxes, and a health insurance premium which covers the child(ren) are deducted] should be deducted and applied to each of the orders for current child support.
4. If all current child support obligations are met from the IWOs, and child support arrearages exist in more than one case, but there is not sufficient income to pay the full amount of all ordered child support arrearages, you shall allocate the child support arrearages following the steps in # 1 – 3, above.

Whenever you prorate an employee's income to comply with more than one IWO, you must provide the following information for each case involved with each payment:

- Docket number
- County name and state
- The full ordered amount for the case
- The date the amount is deducted from the employee's or recipient's income.
- The percentage that each current support order represents of the total ordered amounts from all IWOs for this employee or recipient of income

Example of a proration for multiple IWOs

Assume an employee's net income [after taxes, FICA, and a health insurance premium to cover the child(ren) is deducted] is \$900. Because of the 50% limit, the available income for use in the income assignment is \$450 (\$900 X 50%).

The employee is ordered to pay the following amounts:

\$250.00 per month for support order A
\$200.00 per month for support order B
\$150.00 per month for support order C
\$600.00 = the total amount of all income assignments.

This total exceeds the \$450.00 income available for income withholding. Therefore, you must pay the amount of the available income that each income withholding represents as a percentage of the total of all IWOs as follows:

Order A = $\$250/\600 , or 42%, x $\$450 = \189.00

Order B = $\$200/\600 , or 33%, x $\$450 = \148.50

Order C = $\$150/\600 , or 25%, x $\$450 = \112.50

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If the employee has sufficient available income to satisfy all current child support orders, but not all ordered child support arrearages, you would apply the same proration procedure as shown above to the child support arrearage payment.